

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF WISCONSIN**

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**UNITED STATES OF AMERICA,**

**Plaintiff,**

**v.**

**Case No. 06-CR-158**

**PERRIS D. CANNADAY,**

**Defendant.**

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**ORDER ON DEFENDANT'S REQUEST FOR AN EVIDENTIARY HEARING**

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On June 27, 2006 the defendant, Perris D. Cannaday was charged in a single count indictment with possessing with intent to distribute more than five grams of crack cocaine in violation of Title 21, United States Code, Sections 841(a)(1) and 841(b)(1)(B). Included in the indictment was a notice of forfeiture pursuant to Title 21, United States Code, Section 853. This court ordered that all pre-trial motions to be filed by July 19, 2006, responses due by July 28, 2006, and any reply due by August 20, 2006. A final pretrial is scheduled for September 7, 2006 and a jury trial is scheduled for September 18, 2006 before the Honorable Charles N. Clevert, Jr.

On July 12, 2006, the defendant filed a motion to suppress all evidence that was seized from his person during a search incident to arrest. The defendant alleges that there was no valid arrest warrant at the time he was arrested and there is a dispute as to whether there was any other lawful basis for the police to arrest the defendant. The defendant requests an evidentiary hearing to address this factual dispute and estimates that one hour of court time is required.

The court agrees that an evidentiary hearing is necessary to resolve this factual dispute and determine if there was a lawful basis for the defendant's arrest and thus the subsequent search incident to arrest.

**IT IS THEREFORE ORDERED** that the defendant's evidentiary hearing request is **granted**. The evidentiary hearing on the defendant's motion to suppress evidence will commence **August 17, 2006**, at **2:00 p.m.** in Courtroom 254, United States Courthouse, 517 E. Wisconsin Avenue, Milwaukee, Wisconsin.

Dated at Milwaukee, Wisconsin, this 24th day of July, 2006.

s/AARON E. GOODSTEIN  
United States Magistrate Judge